



State of Washington
Department of Revenue

Excise Tax Advisory

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CONVERSION DATE: July 1, 1998

BUSINESS AND OCCUPATION TAX ON LOCAL SERVICES OF NONSELLING RESIDENT MANAGERS

Issued August 5, 1977

REPEALED 9/14/2001

Do nonselling resident district managers who primarily perform public relations and marketing services for an out-of-state seller provide sufficient nexus (i.e., connection, tie, link) to require payment of the business and occupation tax by the seller?

Taxpayer, a franchisor, sold products and merchandising services to franchised stores in the state of Washington. It maintained three resident employee district managers in Washington who advised the franchisees in order to enhance the marketability of its product line. The Department of Revenue held the business and occupation tax to be due upon the seller's Washington sales to its franchisees.

Where an out-of-state seller, either directly or by an agent or other representative, performs significant services in relation to establishment and maintenance of sales into the state, the business and occupation tax is applicable even though (a) the seller may not have formal sales offices in Washington, or (b) the agent or representative may not be formally characterized as a "salesman".

This ruling by the Department is consistent with the latest U.S. Supreme Court decision on nexus, Standard Pressed Steel Company v. Department of Revenue of Washington, 419 U.S. 560 (1975). The court held that activities that make possible the realization and continuance of valuable contractual relations provide sufficient nexus for business and occupation tax, despite the lack of actual sales solicitation.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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